സ്ഥലം എടുപ്പാൻ കല്പനയായതെന്നും ആവക സംഖ്യയാതൊന്നും അവക്കും അവരുടെ അച്ഛനൊ കൊടുത്തിട്ടില്ലെന്നും അറിയുന്നു. സംഖ്യ കൊടുത്തതല്ല കൊണ്ടും അവർക്ക് ഇതിനെ പറ്റി യാതൊരു കല്പനയും കൊടുത്തതിനാലും ആണ് അവർ തടയുന്നതു എന്നും അറിയുന്നു. അതിനാൽ ഈ കാര്യത്തിൽ ഏതു വിധം വേണ്ടു എന്ന കല്പനയ്ക്ക് അപേക്ഷിച്ചു് ഹർജി മടക്കി ബോധിപ്പിക്കുന്നു.

Adjournment motion regarding the appointment of the new Chief Engineer.

President.—There is an adjournment motion by Mr. Chakkyamuri It reads thus:—

"I beg to move that the business of the Council be adjourned for the purpose of discussing a definite matter of urgent public importance, namely, the widespread dissatisfaction and discontent caused among the subjects of His Highness by the importation of a retired official of advanced years from Travancore to fill one of the most responsible positions in the State Service".

Mr. George Chakkyamuri.—I need not say that this is a matter of public importance, because this is a public matter which concerns all the Members of this House. The urgency of the case is the appointment in question will be made recently, and we have no opportunity here except this to bring this question, and by the time we meet next time he will have finished more than half the time of his office, so that I regard the matter as urgent and of public importance.

President.—These are all appointments which come under the special prerogative of His Highness,—all the appointments of Heads of Departments including the Diwan—and I want you to make out that this Council has the power to discuss that point.

Mr. George Chakkyamuri.—I am not here to question the appointments made by His Highness.

President.—I ask you to explain the urgency and public importance of this matter. These appointments of Heads of Departments are a special prerogative of His Highness.

Mr. C. Achyuta Menon.—I object to that statement. His Highness has delegated the power of appointment to Heads of Departments. There is no difference, so far as the prerogative of His Highness is concerned, between appointments requiring His Highness' sanction and those not requiring it. If that is so, you cannot object to any appointment made by Heads of Departments, for their powers are His Highness' powers. So even the appointment of a peon may be considered as the prerogative of His Highness, and as such we cannot object to it.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Sankara Puduval.—This is not prohibited by the Council Rules.

President.—I don't want to commit myself. Before arriving at a definite decision, I want the question to be gone into.

Mr. A. B. Salem.—This appointment violates the rule of 55 years, that is the trouble. Therefore, we want to see that the Government does not violate that rule.

President.—There is that rule in the Standing Orders, and it has been discussed also in the Council, and the Government knows that. All that I can say is it has been found proper to make the appointment, and I cannot find any urgency in the matter. Further, the appointment has been offered to Rao Bahadur John Kurian and accepted by him, and Government have made the appointment, and so Government cannot withdraw from it.

Mr. A. B. Salem.—Why cannot Government cancel the appointment?

President.—Government cannot cancel.

Mr. George Chakkyamuri.—Ministries have fallen at the voice of public opinion within a short time after they began to function. Here if an appointment is made against the wishes of the people, who will represent it here that we do not want him? So, we should be given an opportunity to give expression to what we think of the matter. We do not want anything more than that. Government seeks him, but we do not want imported services.

Mr. A. Sankara Puduval.—This is a matter, Sir, which is in the cognisance of the Council Rules, Standing Orders and the Regulation.

Mr. C. A. Ouseph.—May I say a word? As regards the urgency of the matter, let me draw a parallel urgent motion in the Madras Legislative Council on the death of several persons in a Railway waggon due to suffocation, that took place after the event. You will remember that the urgent motion on the Mopla Riots also took place after the event. Immediately we cannot come here before the appointment is made.

President.—The fact is negotiations were started and terms were agreed upon and the appointment has been made. Now Government cannot go back upon it.

Mr. George Chakkyamuri.—Let us be allowed to say what we have to say on the matter.

Mr. C. A. Ouseph.—The Veliath Paramba adjournment motion was made, allowed and discussed in this Council after the event.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—Don't make reference to previous cases. Each case depends upon its own merits.

Mr. K. T. Mathew.—What we want you to is to give do us an opportunity to have our say upon the appointment.

President.—Rao Bahadur Kurian was offered this post, and he has accepted it. So this is out of the question.

Mr. K. T. Mathew.—Then we will not get an opportunity to move an adjournment motion on an immediate occurrence.

President.—For the purpose of explaining, that is, to move an adjdournment motion, you have to be guided by certain rules.

Mr. K. T. Mathew.—We also want to follow the rules.

President.—Both of us are following the rules. This is in the first instance within the special gift of His Highness, that is, a prerogative right to appoint Heads of Departments, and I do not think this House has got the right to question the appointments made under the prerogative of His Highness.

Mr. George Chakkyamuri.—May I request you to quote the Standing Order which lays down that the appointments of Heads of Departments could not be discussed in the Council. To my knowledge section 11 refers to certain subjects which we are not allowed to discuss.

President.—That is true.

Mr. A. Sankara Puduval.—With your leave I refer to section 20 of the Rules. 20 (2):—"If the President is of opinion that the matter proposed to be discussed is in order he shall read the statement to the Council and ask whether the Member has the leave of the Council. If no objection is taken, the President shall intimate the hour at which the motion will be taken. If objection is taken, the President shall request those Members who support the motion to rise in their places, and if not less than twenty Members rise accordingly, he shall similarly intimate the hour. If less than twenty Members rise, the President shall inform the Member that he has not the leave of the Council." And it is for the President to decide whether the motion is in order.

President.—That is what I am considering just now, and for that purpose I have to decide the question whether this is an urgent one, and whether this relates to a matter of public importance.

Mr. A. Sankara Puduval.—Neither the Standing Order nor the Rules refer to a discussion by the President and the Members of the Council informally.

President.—But I believe you are aware of the Proceedings of other Councils.

Mr. A. Sankara Puduval.—The President objected to analogies drawn with the other Councils by the Hon'ble Member for Chalakkudi. The Chair did not relish those analogies.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—Did I object to the analogies? The Member for Chalakkudi referred to a specific case, that is, the Veliath Paramba affair. That has nothing to do with this motion

Mr. A. Sankara Puduval.—Did he not refer to the Railway suffocation affair and the Moplah Riots?

Mr. C. Achyuta Menon.—The Simon Commission was appointed by His Majesty, and yet that appointment was criticised by the Legislative Assembly. Even though it is the prerogative of His Majesty to appoint the Commission, they were not precluded from discussing it. His Highness has delegated the power of appointment to the Diwan and the Heads of Departments. The Diwan and the Heads of Departments make all the appointments by virtue of His Highness' prerogative. So you can take shelter under His Highness' name in regard to every appointment, even that of a peon. So even a peon's appointment cannot be discussed here, because it is His Highness' prerogative.

President.—So far as the delegation has been made over by His Highness for the time being to the Heads of Departments, the appointment practically is one made by the Head of the Department. It is not His Highness' appointment.

Mr. A. B. Salem.—We do not wish to bring here for discussion any appointment made by His Highness. We are not going to discuss it at all. His Highness name should not be brought into discussion. The violation of the particular rule of 55 in the face of the expression of opinion of the House is a matter that cannot be justified. Hence the abjournment motion. We want to know on what grounds that violation of the rule has been made. When the Government places the matter and says these are the special circumstances which made us again to violate the rule of 55 years, we shall decide this adjournment motion.

Diwan Bahadur Dr. V. Verghese.—Which is the rule of 55?

Mr. A. B. Salem.—The rule of 55 years which has been under discussion during the last meeting.

Mr. C. Achyuta Menon.—There is the senior Assistant Engineer in our State.

Mr. A. B. Salem.—There was a heavy discussion in this House as to whether we should keep the rule of 55. or the policy that they should not entertain pensioned officers from outside over 55 years into the State. All these questions were discussed here. And there is the Standing Order that is being violated by the Government. The Government may have cogent reasons to violate the rules. We give them an

LIBRARY ARCHIVES Kerala Legislative Assembly

opportunity to place those reasons before the House. Why should the President stand in the way?

Mr. A. Sankara Puduval.—Which provision in article 19 is offended? I cannot see any sub-clause by which this objection can come in. Section 19 of the Council Rules restricts the matter to be brought into the Council, and this particular matter does not fall under any of these clauses.

President.—But look to the principal clause 18. That requires that the matter to be discussed must be definite and of urgent public importance.

Mr. A. Sankara Puduval.—Our rights are restricted only by section 19.

President.—The adjournment motion should be on an urgent matter of public importance. His Highness has delegated certain powers to the Heads of Departments. What Mr. C. Achyuta Menon says is the peons' appointment also comes under that.

Will you please explain the terms 'a definite matter of urgent public importance' and 'delegation of powers'.

Mr. K. Achyuta Menon.—It is not a matter for a lawyer. I do not agree with my friend, the Member for Mulakunnathukavu that, if Head of a Department appoints a peon, it will be His Highness' appointment. Let us not bring the name of His Highness.

Mr. A. B. Salem.—Yes. The name of His Highness should not be brought into the Council. His Highness is above criticism.

Mr. C. Achyuta Menon.—His Highness can veto the appointment even though it has been made.

Mr. K. Achyuta Menon.—Referring to the name of His Highness is not criticising. Please understand what I say. Referring to the act of a Head of a Department in the case of an appointment as a misbehaviour is the same as saying that it is His Highness misbehaviour. It is quite wrong. For His Highness gives the power to the subordinate officers for the appointment. You cannot say His Highness' appointment is His Highness' misbehaviour.

Mr. A. B. Salem.—I seriously object to that term.

Mr. K. Achyuta Menon.—The other question is, the question of urgency. That is one of the most important conditions for an adjournment motion. Is there any urgency for expressing their views?

Mr. C. Achyuta Menon.—Are we to express our views six months hence?

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. Achyuta Menon.—Because we can express it only six months hence is no urgency.

Mr. A. B. Salem.—The appointment has not taken place. It may be cancelled.

Mr. C. A. Ouseph.—I draw your attention to sections 16 and 11 of the Regulation under which shelter is taken. But they do not cover such a case as this. Several steps are provided with regard to the decision in the Council.

President.—I am here considering the main question as to whether I should give my consent to this motion, and there are two conditions that are necessary. They are: (1) it must be urgent and (2) it must relate to a matter of public importance. And these are the two points I want to consider, and it is on these points that I invite a discussion, and if all that could be said has been said, I can give my ruling. We do not want to further discuss this matter.

Mr. A. B. Salem.—It is an urgent case. It is not too late to mend, and, in the face of the expression of opinion in this House, that pensioned—

President.—What I wish to point out is that the terms have been offered and accepted, the appointment has been made with the sanction of His Highness, and it will not look proper on our part, if we say we are not going to accept.

Mr. A. B. Salem.—Supposing he has been actually appointed, could we not ask him to go back?

President.—Then the Government will be liable for damages, because we have entered into a contract, and that contract has been broken.

Dr. A. R. Menon.—Now, Sir, our point is this. We presume that in all these things—in all these appointments—actions are taken under the advice of the legally constituted advisors to His Highness the Maharaja. Therefore, our charge is against the advisors, and to point out to the House that the advisors did not discharge their duty properly. Especially in the light of the recent discussion that took place here, the Government solidly voted against my resolution, by which I wanted to remove these troublesome conditions, and that is why they are landed in this difficulty. The House, I know, voted against my resolution except my friend and myself only voting on one side, and I said then that they will have to go back upon their word and will be landed in difficulty. You have gone back upon your word now. We want to discuss the urgency. There is nothing more important in this House than the appointments of the Heads of Departments. The appointment has already taken place, and this is the most opportune moment for us to recall our

LIBRARY ARCHIVES Kerala Legislative Assembly

opinion against the actions of the Government, and it is not only to-day that His Highness' prerogative is taken as a shelter. We are not fools to question the prerogative of His Highness. Our complaint is against the advisors who are tendering bad advice to His Highness.

Mr. C. Achyuta Menon.—With my long experience in Government service, I can say that in the Proceedings making these appointments, the Diwan's letter of recommendation is read as the first paper, and the Sarvadhikariakar's letter conveying His Highness' sanction to the Diwan's recommendation is read in the second place, and yet the Diwan now is sheltering himself behind His Highness' prerogative and precluding us from discussing the matter.

Mr. A. Sankara Puduval.—It is very much to be regretted.

President.—That is all right.

Mr. C. Achyuta Menon.—Even the Tahsildar or a Munsiff can make use of His Highness' name.

President.—Is that all?

All Members.—Yes.

President.—The present motion for adjournment of business is sought to be made in regard to the recent appointment of Mr. John Kurian as the acting Chief Engineer of the State consequent on the leave granted to the permanent Chief Engineer. The question for decision is whether I should give my consent to the motion.

The facts are that the appointment of Mr. Kurian has been made on certain binding terms, and the appointment has to be in force for the acting period. I do not see what urgency there is in a motion of the present nature. Even assuming that the House is against the appointment, it cannot be cancelled, and nothing has to be done urgently. I am of opinion that this is not a proper case for the moving of an adjournment motion. I am, therefore, unable to give my consent to the motion.

Mr. C. Achyuta Menon.—May I say a word?

President.—No.

Mr. C. Achyuta Menon.—I appeal to the good sense of the Members. I shall come back when the Council functions under more auspicious circumstances.

Mr. A. Sankara Puduval.—We shall also meet when the Council sits under more favourable conditions.

Mr. S. F. Nunez.—I appeal to the commonsense of the Progressive Party that they should not be so very hasty in going.

Dr. A. R. Menon.—We are satisfied that it is done purposely.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. George Chakkyamuri.—Will you allow me to say a word?

President.—No. I have passed my ruling. You have to accept it.

Mr. A. B. Salem.—We do not want to sit in a Council where we cannot freely express our opinion and where we are throttled by the Diwan-President.

President.—Your expressions are uncalled for.

(*At this stage, some of the Members walked out.*)

President.—This is a second walk-out. I believe we have still a quorum. We want 15.

Mr. O. R. Chummar.—There is no more work to be done. All the resolutions stand in the names of those Members who are away.

President.—Have we not got the quorum?

Mr. O. R. Chummar.—More than that.

President.—Why not we proceed?

Mr. V. K. Kochunni Menon.—All the Bills and resolutions are of those who have walked out. There is one resolution in Mr. Ambooken's name.

President.—You just take a list of the walk-outs. What I want to point out is, in all these cases of walk-out, it should not be based on the rulings of the President. The President is given the discretion to pass a ruling on matters coming before him and he uses the best discretion. Because the ruling has not been agreeable to the proposals of other persons, that should not be made the ground of any dissatisfaction, discontent or anything of the kind. That should not be the attitude. Whether right or wrong, that has to be accepted. Please note down the names of those present here.

Srimati T. Madhavi Amma belongs to the Progressive Party. It is not a Progressive Party walk-out.

Mr. S. S. Koder.—This is a mixed party.

List of those who walked out.

1. Mr. C. Achyuta Menon.
2. ,, Chakko Cheruvattur.
3. ,, George Chakkyamuri.
4. ,, A. Eachara Menon.
5. ,, E. Ikanda Wariar.
6. ,, K. T. Mateew.
7. ,, C. A. Ouseph.
8. Mr. N. Padmanabha Menon.
9. Dr. A. R. Menon.
10. Mr. K. S. Rama Ayyar.
11. ,, T. A. Ramachandra Ayyar.
12. ,, M. K. Raman.
13. ,, A. B. Salem.
14. ,, A. Sankara Puduval.

President.—Mr. Ambooken, I think, did not go with others.

Mr. O. R. Chummar.—He was here for some time. When we said that there was one resolution of his, he went out.

President.—He did not want the resolution to be taken

LIBRARY ARCHIVES Kerala Legislative Assembly

up. I think he has not joined the walk-out. He did not want to move his resolution.

Diwan Bahadur Dr. V. Verghese.—Why not we send for him ?

President.—I sounded the bell. Nobody turned up. His name may be included as a case of doubt. And Mr. Raman Menon ?

Mr. Sheik Abdul Qadir Sahib Bahadur. - At first he did not walk out. Subsequently he walked out.

Mr. O. R. Chummar.—Mr. K. Raman Menon too. He went last. He went rather late without making any noise.

President.—The test is we must take them to have participated in the walk-out, if they walked out without losing time. But if they took some time, and rested for a few minutes, then I think you may take their case as one not within the walk-out.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—They have walked out. They are not present here.

President.—It must appear in the proceedings who all are the Members who walked out.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Regarding Mr. Ambooken, you may ask him.

The Cochin Jenmi Kudiyan Bill.

President.—The next item of business is Mr. Rama Ayyar's Bill. He is absent. So, it is taken as withdrawn.

The Cochin Free Compulsory Primary Education Bill.

President.—The next item is Mr. K. T. Mathew's Bill. Absent. Taken as withdrawn.

Resolutions on matters of General Public Interest.

1. *The reduction in the rate of school fees (contd.)*

President.—The next item is continuation of the discussion of Mr. Ambooken's resolution. It was discussed in part yesterday. The resolution has been moved in the Council. So the Council is in possession of the resolution. Is it not, Mr. Kochunni Menon ?

Mr. C. A. Kunjunni Raja.—It has to be put to the vote.

Mr. K. Achyuta Menon.—Yesterday's resolution is not finished.

Mr. C. A. Kunjunni Raja.—The mover may not have to say anything more.

Mr. V. K. Kochunni Menon.—Mr. Ambooken's resolution is to-day's resolution. Yesterday's resolutions are all passed.

President.—It was only moved. There was no quorum, and so the sitting was brought to a close 20 minutes to 5.

LIBRARY ARCHIVES Kerala Legislative Assembly